

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MURRAY WALTER PISONY,

*Plaintiff/Counterclaim
Defendant,*

v.

COMMANDO CONSTRUCTION, INC.
and JAMES MCLEOD HOLDINGS, INC.,

*Defendants/Counterclaim
Plaintiffs.*

Case No.: 6:17-cv-00055 RP-JCM

JURY DEMAND

**DECLARATION OF DAISY MANNING IN SUPPORT OF
DEFENDANTS/COUNTERCLAIM PLAINTIFFS'
OPENING CLAIM CONSTRUCTION BRIEF**

I, Daisy Manning, hereby state and declare as follows:

1. I am an attorney for Defendants/Counterclaim Plaintiffs Commando Construction, Inc. and James McLeod Holdings, Inc. in the above-styled litigation. My testimony in this declaration is based on personal knowledge, information and belief relating to this litigation.
2. Attached hereto as Exhibit A is a true and correct copy of U.S. Patent No. 7,591,629 (the ““629 patent”).
3. Attached hereto as Exhibit B is a true and correct copy of U.S. Patent No. 5,934,861 (the ““861 patent”).
4. Attached hereto as Exhibit C is a true and correct copy of U.S. Patent No. 7,320,202 (the ““202 patent”).

5. Attached hereto as Exhibit D is a true and correct copy of the parties' Joint Claim Construction and Prehearing Statement as filed with the Court on June 11, 2018 (previously filed as Dkt. 45).

6. Attached hereto as Exhibit E is a true and correct copy of Plaintiff Murray Walter Pisony's ("Plaintiff") Preliminary Infringement Contentions and accompanying charts, served March 8, 2018.

7. Attached hereto as Exhibit F is a true and correct copy of Plaintiff's Amended claim charts (Exhibits 1 and 2) to its Preliminary Infringement Contentions, served April 26, 2018.

8. Attached hereto as Exhibit G is a true and correct copy of U.S. Patent Application No. 11/160,060 as filed on June 7, 2005 from the prosecution history of the '629 patent.

9. Attached hereto as Exhibit H is a true and correct copy of an Office Action issued Sept. 28, 2007 from the prosecution history of the '629 patent.

10. Attached hereto as Exhibit I is a true and correct copy of an Amendment and Response to Office Action filed Mar. 25, 2008 from the prosecution history of the '629 patent.

11. Attached hereto as Exhibit J is a true and correct copy of an Office Action issued June 9, 2008 from the prosecution history of the '629 patent.

12. Attached hereto as Exhibit K is a true and correct copy of an Amendment and Response to Office Action filed December 9, 2008 from the prosecution history of the '629 patent.

13. Attached hereto as Exhibit L is a true and correct copy of an Office Action issued January 15, 2009 from the prosecution history of the '629 patent.

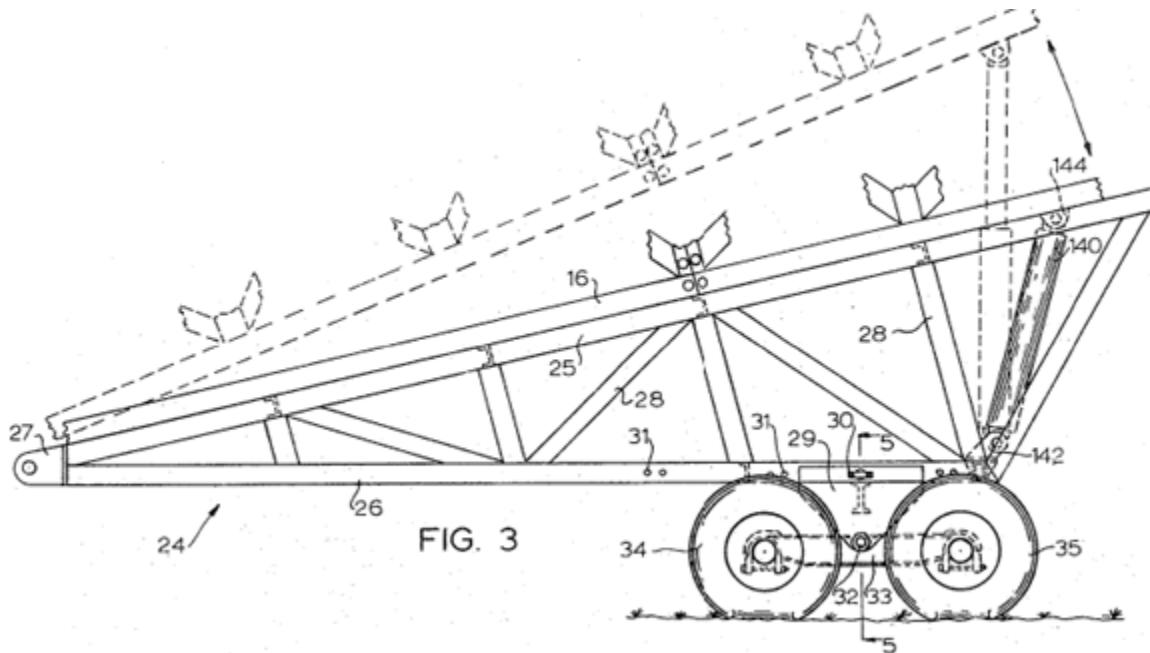
14. Attached hereto as Exhibit M is a true and correct copy of U.S. Patent Application No. 12/539,740 (the “‘740 application”) as filed on August 12, 2009 from the prosecution history of the ‘740 application (a continuation of the ‘629 patent).

15. Attached hereto as Exhibit N is a true and correct copy of the Preliminary Amendment as filed on November 19, 2009 from the prosecution history of the '740 application.

16. Attached hereto as Exhibit O is a true and correct copy of an Office Action issued June 14, 2010 from the prosecution history of the '740 application.

17. Attached hereto as Exhibit P is a true and correct copy of U.S. Patent No. 3,315,795 to Ross (the "795 patent").

18. Below is a reproduction of Figure 3 of the '795 patent, showing a hydraulic cylinder used to raise and lower the subframe about its pivotal connection to the main frame.



19. Attached hereto as Exhibit Q is a true and correct copy of U.S. Patent No. 3,651,963 to McWilliams.

20. Attached hereto as Exhibit R is a true and correct copy of the *Illustrated Oxford Dictionary*'s definition of "extend."

21. Attached hereto as Exhibit S is a true and correct copy of *Random House Webster's Unabridged Dictionary*'s definition of "extend."

22. Attached hereto as Exhibit T is a true and correct copy of *Webster's New World College Dictionary*'s definition of "extend."

23. Attached hereto as Exhibit U is a true and correct copy of *The American Heritage College Dictionary*'s definition of "mast."

24. Attached hereto as Exhibit V is a true and correct copy of *A Dictionary of Construction, Surveying, and Civil Engineering*'s definition of "mast."

25. Attached hereto as Exhibit W is a true and correct copy of *Dictionary of Mechanical Engineering*'s definition of "mast."

26. Attached hereto as Exhibit X is a true and correct copy of *Illustrated Oxford Dictionary*'s definition of "mast."

27. Attached hereto as Exhibit Y is a true and correct copy pages from *The MacMillan Visual Dictionary*'s with various depictions of "mast."

28. Attached hereto as Exhibit Z is a true and correct copy of *The McGraw-Hill Dictionary of Scientific and Technical Terms*' definition of "mast."

29. Attached hereto as Exhibit AA is a true and correct copy of *The Merriam-Webster's Collegiate Dictionary*'s definition of "mast."

30. Attached hereto as Exhibit BB is a true and correct copy of *Oxford English Dictionary*'s definition of "mast."

31. Attached hereto as Exhibit CC is a true and correct copy of *Webster's New College Dictionary*'s definition of "mast."

32. Attached hereto as Exhibit DD is a true and correct copy of *Webster's New World College Dictionary*'s definition of "mast."

33. Attached hereto as Exhibit EE is a true and correct copy of *Random House Webster's Unabridged Dictionary*'s definition of "mast."

* * * *

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the above statements are true and correct.

EXECUTED this 20th day of July 2018, in St. Louis, Missouri.

/s/ Daisy Manning
Daisy Manning